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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION SUA SPONTE
WITHDRAWING IMPROPER
APPOINTMENT OF ATTORNEYS

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of
David Castiel, et al.
Application No. 09/658,215
Filed: September 8, 2000
For: **FIXED SATELLITE
CONSTELLATION SYSTEM EMPLOYING
NON-GEOSTATIONARY SATELLITES IN
SUB-GEOSYNCHRONOUS ELLIPTICAL
ORBITS WITH COMMON GROUND
TRACKS**

This is a decision, *sua sponte*, withdrawing the appointment of attorneys improperly filed on November 4, 2004 and entered into the above-identified application.

A review of the application reveals that a petition decision, granting the application status under 37 C.F.R. §1.47(a) with respect to a non-signing inventor, was mailed on October 29, 2004. A courtesy copy of said petition decision was sent to the non-signing inventor at the address given for the inventor within the petition request. Subsequent to the petition decision, on November 4, 2004, the non-signing inventor submitted an "Appointment of Attorneys" communication.

MPEP § 402.10 Appointment/Revocation by Less Than All Applicants or Owners, states in part:

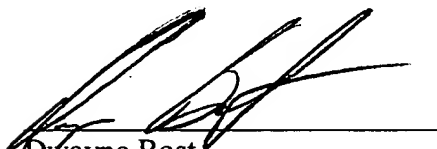
Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition and fee under 37 CFR 1.182 giving good and sufficient reasons as to why such papers should be accepted. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.182 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See *In re Goldstein*, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988). In an application filed under 37 CFR 1.47(a), an assignee of the entire interest of the available inventors who have signed the declaration may appoint or revoke a power of attorney without a petition under 37 CFR 1.182. See MPEP § 402.07. However, in applications accepted under 37 CFR 1.47, such a petition under 37 CFR 1.182 submitted by a previously nonsigning inventor who has now joined in the

application will not be granted. See MPEP § 409.03(i). Upon accepting papers appointing and/or revoking a power of attorney that are signed by less than all of the applicants or owners, the Office will indicate to applicants who must sign subsequent replies. An indication will be placed on the file wrapper as to the number of signatures necessary for accepting subsequent replies and the paper number(s) where the split powers of attorney appear. Dual correspondence will still not be permitted. Accordingly, when the acceptance of such papers results in an attorney or agent and at least one applicant or owner prosecuting the application, correspondence will be mailed to the attorney or agent. When the acceptance of such papers results in more than one attorney or agent prosecuting the application, the correspondence address will continue to be that of the attorney or agent first named in the application, unless all parties agree. Each attorney or agent signing subsequent papers must indicate whom he or she represents. [emphasis added]

In accordance with MPEP §402.10, the "Appointment of Attorneys" was improper and should not have been entered by the Office. The communication was not signed by all inventors and/or the assignee of record and also given the granted status under 37 C.F.R. §1.47(a), a petition would have been required with the exception that a petition under 37 C.F.R. §1.182 would not have been granted from the non-signing inventor. Accordingly, the improperly entered appointment from the non-signing inventor is hereby vacated and the correspondence/power of attorney has been restored to the address listed above. A courtesy copy of this decision will be mailed to the address listed below. However, all future communications will be sent to the address listed above until a proper change in correspondence address is filed.

Subsequent to the improper appointment, a Notice of Allowance was mailed on January 10, 2005, to the improper correspondence address. Therefore, in addition to vacating the improper Appointment of Attorneys, the Notice of Allowance and Issue Fee due is also hereby vacated.

The application file is being forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due. The new Notice of Allowance and Issue Fee Due as well as Notice of Allowability will be re-mailed setting a new three month statutory period for payment of the issue fee.



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